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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 RICHARD DEAN MERTEN,

7 Plaintiff,

8 v.

9 OFFICER GARDNER,

10 Defendant.

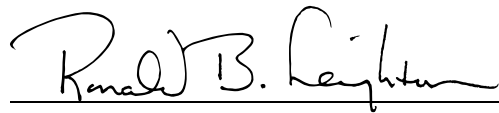
No. C11-5641 RBL/KLS

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

11 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen  
12 L. Strombom, objections to the Report and Recommendation, if any, and the remaining record,  
13 does hereby find and **ORDER:**

- 14 1) The Court adopts the Report and Recommendation.  
15 2) Defendants' Motion to Dismiss (ECF No. 22) is **GRANTED**; Plaintiff's  
16 claims are **Dismissed without Prejudice for failure to exhaust**.  
17 3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for  
18 Defendant and to the Hon. Karen L. Strombom.

19 **DATED** this 15<sup>th</sup> day of May, 2012.  
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23 Ronald B. Leighton  
24 United States District Judge  
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